THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.1249_of 1999

Dated: 12.07.2006

Between
S.M.V.M Polytechnic, rep.., by its
Chairman Sri Mullapudi Harischandra
Prasad, Tanuku.

…..Petitioner

and

1.The Controlling Authority under payment of
Gratuity Act, 1972 and
The Assistant Commissioner of
Labour, West Godavari District,
Eluru and another.

….Respondents

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W.P.No.1249_of 1999

ORDER:

This writ petition is directed against an order made in M.P.P.G.No.4 of 1998 dated 2.11.1998 on the file of the controlling authority under the payment of Gratuity Act, 1972 cum Assistant Commissioner of Labour, West Godavari District.

Under the impugned proceedings, the authority firstly condoned the delay in filing the application under the payment of Gratuity Act 1972. Aggrieved by the same, this writ petition has been preferred by the employer.

It seems that the 2nd respondent joined in the services in 1958 and retired on 30.4.1990 after attaining the age of superannuation. After his retirement, he made an application to the petitioner on 26.10.1990 claiming gratuity under the Gratuity Act, 1972 and the same was rejected on 5.11.90 stating that he is not entitled for gratuity. Of course, the 2nd respondent has not taken any steps and thereafter he filed a petition before the Authority under the payment of Gratuity Act, 1972 claiming gratuity stating that the rejection order passed by the petitioner was illegal and arbitrary.

Under similar circumstances, a Division Bench of this Court in W.A.No.823 of 1988 dated 4.12.1998 held that the payment of Gratuity Act is also applicable to the teachers as that of the 2nd respondent and in fact, the petitioner was a party to the said

proceedings. In the said Writ Appeal, the appellant therein, who was working as a Physical Director in the institution of the petitioner herein filed an application before the Authority under Payment of Gratuity Act after his retirement claiming gratuity. The said application was allowed by the Authority. Challenging the same, the Management-petitioner herein filed Writ Petition No.10449 of 1987 and this Court allowed the same. Aggrieved by the same, the Physical Director filed W.A.No.823 of 1988 and a Division Bench of this Court by Judgment dated 4.12.1998 held that even an educational institution comes under the purview of 'establishment' with the meaning of the Act, thereby attracting the liability to contribute to the Provident Fund and thus set aside the Judgment in Writ Petition No.10449 of 1987 and allowed the Writ Appeal.

In view of the same, rejecting the claim of the 2nd respondent by the petitioner was also illegal. The delay on the part of the 2nd respondent was neither willful nor intentional and therefore, the same was condoned. It was the duty of the petitioner to pay Gratuity as per the Act. When it was rejected by the petitioner, the 2nd respondent approached the 1st respondent with delay petition which was considered and ordered.

Under these circumstances, I am of the opinion that the authority below has considered the case of the respondent in proper perspective and condoned the delay. No interference is called for by this Court under Article 226 of the Constitution of India. Writ petition is devoid of merit and is liable to be dismissed.

Accordingly, the writ petition is dismissed. However, the 1st respondent shall proceed with the case as per law. No costs.

12.07.2006

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